

§ 301.93-3

below -17.8°C . (0°F .) are not regulated articles.

(b) Soil within the drip area of plants that are producing or have produced the fruits, nuts, vegetables, or berries listed in paragraph (a) of this section.

(c) Any other product, article, or means of conveyance not covered by paragraph (a) or (b) of this section that an inspector determines presents a risk of spread of the Oriental fruit fly and notifies the person in possession of it that the product, article, or means of conveyance is subject to the restrictions of this subpart.

[58 FR 8521, Feb. 16, 1993; 58 FR 29028, May 18, 1993]

§ 301.93-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which the Oriental fruit fly has been found by an inspector, in which the Administrator has reason to believe that the Oriental fruit fly is present, or that the Administrator considers necessary to regulate because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Oriental fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of the Oriental fruit fly.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing quarantined areas. The Administrator will give written notice of this temporary designation to the owner or person in possession of the nonquarantined area; thereafter, the interstate movement of

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any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas:

CALIFORNIA

Los Angeles and San Bernardino Counties. That portion of Los Angeles and San Bernardino Counties in the Rancho Cucamonga area bounded by a line as follows: Beginning at the intersection of North Mills Avenue and Mount Baldy Road; then northeast and north along Mount Baldy Road to its intersection with Barrett Road; then east from the intersection of Mount Baldy Road and Barrett Road along an imaginary line to the Joe Elliot Tree Memorial; then southeast from the Joe Elliot Tree Memorial along an imaginary line to the north end of Etiwanda Avenue; then southeast and south along Etiwanda Avenue to State Highway 30; then west along State Highway 30 to Rochester Avenue; then south along Rochester Avenue to Baseline Road; then west along Baseline Road to Milliken Avenue; then south along Milliken Avenue to State Highway 66; then west along State Highway 66 to Haven Avenue; then south along Haven Avenue to 8th Street; then west along 8th Street to East 8th Street; then west along East 8th Street to West 8th Street; then west along West 8th Street to Central Avenue; then north along Central Avenue to State Highway 66; then west along State Highway 66 to North Mills Avenue; then north along North Mills Avenue to the point of beginning.

[58 FR 8521, Feb. 16, 1993, as amended at 60 FR 18728, Apr. 3, 1995; 62 FR 45142, Aug. 26, 1997; 62 FR 47552, Sept. 10, 1997; 62 FR 53225, Oct. 14, 1997; 63 FR 16878, Apr. 7, 1998; 64 FR 31964, June 15, 1999; 64 FR 52214, Sept. 28, 1999; 64 FR 55812, Oct. 15, 1999; 65 FR 26488, May 8, 2000; 66 FR 46366, Sept. 5, 2001; 66 FR 55068, Nov. 1, 2001; 67 FR 62628, Oct. 8, 2002; 68 FR 1362, Jan. 10, 2003; 68 FR 43287, July 22, 2003]

§ 301.93-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Any regulated article may be moved interstate from a quarantined area

only if moved under the following conditions:²

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.93-5 and 301.93-8 of this subpart;

(b) Without a certificate or limited permit, if:

(1) The regulated article originated outside of any quarantined area and is moved directly through (without stopping except for refueling, or for traffic conditions, such as traffic lights or stop signs) the quarantined area in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by Oriental fruit flies (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill, and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area.

(c) Without a certificate or limited permit, if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the permit and found by the Administrator to be adequate to prevent the spread of Oriental fruit fly; and

(4) With a tag or label bearing the number of the permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container.

(Approved by the Office of Management and Budget under control number 0579-0088)

§ 301.93-5 Issuance and cancellation of certificates and limited permits.

(a) An inspector³ will issue a certificate for the interstate movement of a

²Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

³Inspectors are assigned to local offices of the Animal and Plant Health Inspection Service, which are listed in telephone directories. Information concerning these offices

regulated article if the inspector determines that:

(1) (i) The regulated article has been treated in accordance with § 301.93-10 of this subpart; or

(ii) Based on inspection of the premises of origin, or treatment of the premises of origin in accordance with § 301.93-10(c) of this subpart, the premises are free from Oriental fruit flies and the regulated article has not been exposed to Oriental fruit fly; or

(iii) Based on inspection of the regulated article, it is free of Oriental fruit fly; and

(2) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)⁴ to prevent the spread of the Oriental fruit fly; and

(3) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the Oriental fruit fly because life stages of the Oriental fruit fly will be destroyed by the specified handling, utilization, or processing.

(2) The regulated article is to be moved interstate in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)⁴ to prevent the spread of the Oriental fruit fly; and

may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236.

⁴An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).